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9 Attorneys for Defendants
10 LISA FARIA, SHARA MESIC BELTRANO and
11 STACY PETTIGREW in their capacities
12 as Alameda County Deputy District Attorneys

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 CORNELIUS LOPES,

NO. C-07-6213 PJH

16 Plaintiff,

JOINT CASE MANAGEMENT STATEMENT
Federal Rule of Civil Procedure 16(b) and
Civil L.R. 16-2

17 vs.

18 FREMONT FREEWHEELERS, et al.,

Date: May 29, 2008

Time: 2:30 p.m.

19 Defendants.

Dept.: Courtroom 3, 17th Floor
Judge: Phyllis J. Hamilton

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22 A. Description of the Case

23 Plaintiff collided with a bicyclist participating in a bicycle race in June 2004 and was
24 subsequently arrested for intentionally causing the accident. Plaintiff was never convicted of these
25 criminal charges and the Superior Court granted dismissal of the case brought against Plaintiff, *People v.*
26 *Lopes*, No. 209109-1, on October 12, 2005. Following this dismissal, Plaintiff filed a vague Complaint
27 against a number of Defendants, including Assistant District Attorneys LISA FARIA and SHARA
28 MESIC (now SHARA MESIC BALTRANO).

1 B. Procedural History

2 1. Plaintiff's First Complaint

3 On or around June 12, 2006, Plaintiff filed his first Complaint against a number of
 4 Defendants including Joseph Dale Wren, the Newark Police Department, the Newark Police Union
 5 (collectively, the "City"), LISA FARIA and SHARA MESIC. Plaintiff was allowed to amend his first
 6 Complaint four times, after which this Court found that Plaintiff still failed to state a claim against
 7 Defendant FARIA. It also found that Plaintiff's allegations against MESIC fell squarely within the
 8 doctrine of absolute prosecutorial immunity. Thus, on December 14, 2006, this Court dismissed the
 9 claims against FARIA and MESIC, without leave to amend. The City of Newark's Motion for Summary
 10 Judgment was granted on June 25, 2007.

11 2. Plaintiff's Second and Current Complaint Arising from the Same Incident

12 On or around November 2, 2007, Plaintiff filed his current Complaint in Alameda County
 13 Superior Court, and he filed his First Amended Complaint on or around November 8, 2007.

14 On December 7, 2007, this case was removed from the Alameda County Superior Court
 15 to the Northern District of California. On December 13, 2007, Defendant CB Richard Ellis, Inc. filed its
 16 Motion to Dismiss pursuant to FRCP 12(b)(6) on the grounds of *res judicata* and statute of limitations.
 17 On March 10, 2008, this Court granted Defendant CB Richard Ellis, Inc.'s motion and dismissed it from
 18 this case.

19 On April 25, 2008, the law offices of PATTON ♦ WOLAN ♦ CARLISE LLP received
 20 Plaintiff's Summons for his current Complaint which consists of 18 vague and ambiguous "Counts"
 21 against a long list of Defendants. The Alameda County District Attorney only appears in Counts 13, 14
 22 and 15, and LISA FARIA, "Mrs. PETAGREW" and SHARA MESIC only appear in Count 17. Like
 23 Plaintiff's first Complaint, this second Complaint is vague, ambiguous and often indecipherable.

24 On May 7, 2008, Defendant Larry Nolan filed his Motion to Dismiss pursuant to
 25 FRCP 12(b)(6) on the grounds that the applicable statutes of limitations have run, Plaintiff has failed to
 26 state a cause of action upon which relief can be granted, and Plaintiff has failed to plead applicable
 27 remedies in accordance with the law. This Motion is scheduled to be heard on June 25, 2008.

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On May 12, 2008, Defendants Linda Buffetti and USA Cycling filed a Motion to Dismiss as to Counts 2, 8 and 18. This Motion is scheduled to be heard on June 25, 2008.

On May 13, 2008, Defendants FARIA, MESIC BELTRANO and PETTIGREW filed a Motion to Dismiss pursuant to FRCP 12(b)(6) on the grounds of *res judicata*, immunity and statute of limitations. This Motion is scheduled to be heard on June 25, 2008.

On May 20, 2008, Defendants Jason Sage and Garry Birch filed their Motion to Dismiss pursuant to FRCP 12(b)(6) on the grounds that the applicable statutes of limitations have run, Plaintiff has failed to state a cause of action upon which relief can be granted, and as for Jason Sage, that the doctrine of *res judicata* bars the current litigation. Defendant Jason Sage is listed in Counts 1, 4, 5, 6, 7, 8, 12, & 18 while Defendant Garry Birch is listed in Counts 5, 6, 7, 8, 12, & 18.

On May 21, 2008, Defendants Richard Brockie, Tim O'Hara, Sally Wilson, & Fremont Freewheelers Bicycle Club learned that Plaintiff has filed Return of Services that he alleges he properly served them. Defendants will be filing Motions to Dismiss pursuant to FRCP 12(b)(4) that they were not properly served and thus must be dismissed. Defendant Brockie is listed in counts 3, 4, 6, 8, 12, & 18. Defendant Wilson is named in counts 5, 6, 7, 8, 12, & 18. Defendant O'Hara is listed in counts 5, 6, 7, 8, 12, & 18. Defendant Fremont Freewheelers Bicycle Club is listed in counts 1, 2, 3, 6, 7, & 10.

C. Trial Date/Estimated Length of Trial: N/A (see "H" below).

D. Fact Discovery Cutoff: 60 days before trial.

E. Date For Designation of Experts and Other Witnesses: 60 days before trial.

F. Date For Pretrial Conference: 2 weeks before trial.

G. Subject Matter Jurisdiction; Parties Remaining to be Served: Undisputed; unknown.

H. Legal Bases For Defendants' Defenses:

- *Res Judicata*;
- Immunity;
- Statute of limitations.

I. Legal Issues In Dispute: None known to Defendants.

J. Issues For Dispositive Motions: All legal issues (see "H," above).

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K. Motions Anticipated By the Parties: Defendants have filed Motions to Dismiss based on *res judicata*, immunity and the statute of limitations. If the motions are denied, then Defendants will move for summary judgment.

L. Relief Sought By Plaintiff: Amount of Damages Claimed: Unknown.

M. Discovery Intended: If Defendants' Motions to Dismiss are denied, the Defendants will conduct depositions.

N. Related Cases: C-06-03705-crb.

O. Class Action: N/A.

P: Earliest Reasonable Dates For Discovery Cutoff, Pretrial Conference and Trial: See "D," "E" and "F" above.

Q. Prospects for Settlement: None.

R. Meet and Confer Attempts: Unable to reach the plaintiff, Defendants alone submit this Joint Case Management Statement.

Dated: May 22, 2008

PATTON ♦ WOLAN ♦ CARLISE LLP

by: _____/s/_____

STEVEN C. WOLAN
ANDREA S. CARLISE
MAUREEN M. DUFFY
Attorneys for Defendants
LISA FARIA, SHARA MESIC BELTRANO
and STACY PETTIGREW in their capacities
as Alameda County Deputy District Attorneys

Dated: May 22, 2008

by: _____/s/_____

MARK PHILIP MEUSER
Attorneys for Defendants
FREEMONT FREEWHEELERS, LARRY
NOLAN, GARRY BIRCH, JASON SAGE,
RICHARD BROCKIE, SALLY WILSON,
TIM O'HARA

1 Dated: May 22, 2008

HINSHAW & CULBERTSON, LLP

2
3 by: _____/s/_____
4 DAVID IAN DALBY
5 Attorneys for Defendants USA CYCLING,
6 INC., LINDA BUFFETTI

7 Dated: May 22, 2008

FORTUNE O'SULLIVAN & HUDSON

8
9 by: _____/s/_____
10 NORMAN CHARLES LA FORCE
11 Attorneys for CB RICHARD ELLIS

12 Dated: May 22, 2008

LAW OFFICES OF GARY M. LEPPER

13
14 by: _____/s/_____
15 FURAH ZAMIR FARUQUI
16 Attorneys for NEWARK POLICE
17 DEPARTMENT, JIM DAVIS and JOSEPH
18 DALE WREN
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PROOF OF SERVICE

I, Leah J. Duckworth, declare:

I am employed in the County of Alameda, California. I am over the age of 18 years and not a party to the within-entitled action. I am employed by the law firm of PATTON ♦ WOLAN ♦ CARLISE LLP, whose business address is 1999 Harrison Street, Suite 1350, Oakland, California 94612.

On May 22, 2008, I caused to be served:

- JOINT CASE MANAGEMENT STATEMENT Federal Rule of Civil Procedure 16(b) and Civil L.R. 16-2

X (by mail) on all parties in said action, in accordance with Code of Civil Procedure Section 1013, by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At PATTON ♦ WOLAN ♦ CARLISE LLP, mail placed in that designated area is given the correct amount of postage and is deposited that same day, in the ordinary course of business, in a United States mailbox in the City of Oakland, California.

Cornelius Lopes
6251 Quartz Place
Newark, CA 94560

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed on May 22, 2008, at Oakland, California.

_____/s/_____
Leah J. Duckworth